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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,796	06/24/2003	James G. Horian	JHORIAN.001A	1508
20995 7590 12/13/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER SHAPIRO, JEFFERY A	
			ART UNIT 3653	PAPER NUMBER
			NOTIFICATION DATE 12/13/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary

Application No.

10/602,796

Applicant(s)

HORIAN, JAMES G.

Examiner

Jeffrey A. Shapiro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-15, 19 and 29-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-15, 19 and 29-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-15, 19, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aschenbeck (US 4,693,357) in view of Pepiciello, further in view of Wenner (US 4,591,042), and still further in view of Dobbins (US 6,929,110 B2).

Aschenbeck discloses a coin drop mechanism for operating a newspaper vending machine, said mechanism having a coin channel (24 or 26), an actuator (28) or (130 and 30) that protrude into said channels through an aperture, the final coin deposited in the chute blocking said aperture to complete a purchase. See also figures 3-7.

See, for example, figure 7 which illustrates actuator (28) blocked by a top-most coin in the coin chute.

Regarding the pivoting of the channels, note slidable members (146) with pivots (148 and 150) and spring (154) in figures 3 and 4. Note figure 4 that illustrates the pivoting.

Regarding an actuator depressed by the user, note that it is inherent that an actuator or the equivalent, either depressed by the user or automatically actuated would cause a mechanism to move to engage said coin blocking the actuator

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opening/aperture, since the system and mechanism of Aschenbeck would work substantially similar to Applicant's device, regardless of whether a manual or automatic actuator is used.

Regarding said product support member and the flag member, Aschenbeck's device necessarily operates a product support member to dispense items. Note also that the opening of a lock device by addition of the final coin can be argued to be substantially the same as Applicants' product support since it acts to dispense a purchased product.

Aschenbeck does not expressly disclose, but **Pepiciello** discloses an actuator (32) that releases a product in the form of a newspaper when the proper change is inserted.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used Pepiciello's actuator mechanism in Aschenbeck's newspaper dispenser, said actuator being actuated by Aschenbeck's coin mechanism upon the insertion of correct change.

The suggestion/motivation for using Pepiciello's teaching would have been to prevent the machine from being operational after the machine becomes empty. See Pepiciello, col. 1, lines 25-32.

Aschenbeck does not expressly disclose, but **Wenner** discloses a contoured coin channel, as shown in figure 1, for example.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used a contoured coin channel instead of a linear coin channel.

The suggestion/motivation would have been to accommodate more coins in the same plane as the linear coin channel.

Note also that Aschenbeck discusses the need for flexibility to switch from lower priced goods to higher priced goods, ie., from the daily paper to the Sunday paper. Higher priced goods require more coins, therefore one ordinarily skilled in the art would find it obvious in light of Wenner's disclosure to use a contoured, winding coin path to store more coins than the Aschenbeck's linear coin paths could accommodate by themselves.

Aschenbeck does not expressly disclose, but **Dobbins** discloses a contoured coin channel, as shown in figures 11 and 12, which is **movably connected** to a support member by pins (612) so that coins can be cleared when tab (650) is depressed.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used a **movably connected** contoured coin channel instead of a stationary coin channel. See Dobbins, col. 10, lines 30-65.

The suggestion/motivation would have been to allow coin jams to be cleared by a clearing device. See Dobbins, col. 10, lines 42-44.

3. Claims 29, 30 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry (US 2,348,434) in view of Glaser (US 5,915,519) and further in view of Flicker (US 4,823,984).

Henry discloses a contoured channel (3 and 7), as illustrated in figure 22, a coin partially obstructing aperture (8) in wall (4), into which an actuator in the form of

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member (12) rocks forward thus holding coin (A, B, C) against the wall of channel (3, 7), as shown in figures 18-22. See also Henry, p. 1, right-hand col., lines 14-55, p. 2, left-hand col., lines 1-7, p. 3, right-hand col., lines 45-75 and p. 4, left-hand col., lines 1-46.

Henry does not expressly disclose, but Glaser discloses displacing the coin chute by a rotary knob (28) that pushes a plate (70) up and down.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have caused Henry's coin channel to pivot in the widthwise direction, for the purpose of removing obstructing items, as taught by Glaser at col. 2, lines 1-14.

Regarding dispensing a product from a vending machine, as described in Claims 29 and 30, although Henry does not expressly disclose a product dispensing lever, it would have been obvious to cause a dispensing lever to be displaced upon displacement of member (12) which rocks forward, since this is the common, well-known fashion to dispense items within a vending machine, as illustrated by Flicker at figure 5b, which shows element (167) moving product dam (187), thereby dispensing product (261).

Response to Arguments

4. Applicant's arguments filed 9/27/07 have been fully considered but they are not persuasive. Applicant's newly added claims and claim amendments are rejected, as described above. Henry discloses a push button actuated coin device which actuates a rocker arm against the wall of a coin channel and holds it there until the item is dispensed. Note that Applicant's new claims 35-37 include conditional language. Claim 35 includes "wherein when in the first position a slot is defined between said first and

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second plates..." in lines 4 and 5 and the language "wherein when said coin at least partially obstructs said opening..." in the last three lines. Claim 36 includes "wherein when said coin does not obstruct said opening..." Claim 37 includes "wherein when said second plate pivots to the second position..." Because these claims exhibit such conditional language, the structure described in Henry is construed to read on Applicant's claimed structure since if for example, either Applicant's or Henry's device is not pivoted to the second position, as called for in Claim 37, they will remain stationary and never reach such condition as called for in the claims. The same logic applies to the other conditional language recited in Claims 35 and 36. Therefore, the combination of Henry, Glaser and Flicker is considered to read on Applicant's new claims 35-37.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JAS 

December 10, 2007


PATRICK MACKEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600